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In re Application of
Brandtjen, Jr. et al.
Application No. 09/844,310
Filed: April 27, 2001
Attorney Docket No. 12275.0013USC1

OFFICE OF PETITIONS
ON PETITION

This decision concerns the April 15, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED**.

On May 28, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period.

On July 21, 2003, a "Response under 37 CFR 1.116" was filed but, as indicated in the August 5, 2003 Advisory Action, did not place the application in condition for allowance and was not entered. The Advisory Action also pointed out that the period for responding to the May 28, 2003 final Office Action remained that set forth in that Office action.

No further response was filed on or before November 28, 2003, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on August 28, 2003.

The instant petition encloses a Request for Continued Examination (RCE) as reply to the May 28, 2003 final Office Action; the \$385 RCE filing fee (small entity); an amendment (including a set of formal drawings) as the RCE "submission" required by 37 CFR 1.114; and the \$665 petition fee (small entity). The petition also states in effect that the entire delay in filing a proper reply to the May 28, 2003 final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

Finally, the petition encloses a \$475 payment intended for a 3-month extension of time (small entity) for filing the petition. However, an extension of time under 37 CFR 1.136 may only be obtained prior to expiration of the maximum extendable reply period.¹ The request for extension of time submitted with the instant petition is not applicable, in that, it is filed subsequent to the maximum extendable reply period, i.e., subsequent to November 28, 2003. Consequently, the \$475 payment has been credited to Deposit Account No. 13-2725 as authorized in the petition.

The application file is being returned to Technology Center 3700 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

¹ See In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).